IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1670 OF 2007

Shahdatali Shaikh @ Chinke
@ Mukadam Abdul Sattar ..Applicant

Vs.

State of Maharashtra ..Respondents

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Ms.Rajeshree M.Poojari i/b Khan Abdul Wahab advocate for applicant
Mr.Rajesh More A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 22, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in C.R.No.401 of 2006 of Kurla Police Station, Mumbai. The said case is mainly under Sections 376 and 109 of IPC.

3. The prosecutrix Sheetal is a young lady. She along with her sister in law Deepa used to collect scrap material. On the day of the incident, Sheetal along with her sister in law were collecting scrap. At that time, co-accused Shakeel

who was known to them, stated that the prosecutrix had robbed scrap material worth Rs.300/-. The prosecutrix denied that she had robbed any scrap material. However, co-accused Shakeel asked them to go inside the godown. Then he made both of them sit on the floor. Both the prosecutrix and Deepa told Shakeel that they had not robbed anything. At that time, Shakeel told the applicant who was in the godown to go outside the godown and lock the godown. Accordingly, applicant went outside and closed the door of the godown from outside. Thereafter, Shakeel committed rape on the prosecutrix. Her sister in law Deepa started shouting for help, however, Shakeel threatened her that if she made any noise, he would also rape her. Thereafter, Deepa kept quiet. After Shakeel finished the act of sexual intercourse, he called out to the applicant who was standing outside, and asked him to open the door. Thereupon, the applicant who had closed the door from outside, opened the said door.

4. The prosecutrix as well as her sister in law have identified the applicant as the person who was present in the godown and who had locked the door

from outside. It is true that applicant has not taken part in the actual offence of rape, and he simply locked the premises. However, the act of the applicant of locking the door from outside and keeping vigil, cannot be said to be an innocuous act. It cannot be overlooked that the applicant did not open the door till co-accused Shakeel asked him to do so. Even though shouts were raised for help, the applicant did not open the door and come to the aid of the ladies. The act of the applicant clearly shows that he has abetted the act of rape committed by Shakeel. The material on record clearly implicates the applicant, hence, I do not think that this is a fit case to grant bail.

5. Application is rejected. Trial is expedited.

[SMT.V.K.TAHILRAMANI, J.]